

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MARIO ACOSTA,

Petitioner,

v.

CV No. 19-352 RB/CG

DANIEL PETERS, Warden,  
ATTORNEY GENERAL OF THE  
STATE OF NEW MEXICO,

Respondents.

**ORDER TO ANSWER**

**THIS MATTER** is before the Court on Petitioner Mario Acosta's 28 U.S.C. § 2254 *habeas corpus petition*, (the "Petition"), (Doc. 1), (Doc. 4). The Court has reviewed the Petition pursuant to 28 U.S.C. § 2254 and Habeas Corpus Rule 4. The Court finds the Petition is not subject to summary dismissal.

**IT IS THEREFORE ORDERED** that the Clerk shall forward copies of this Order and the Petition, (Doc. 1), (Doc. 4) to Respondents.

**IT IS FURTHER ORDERED** that Respondents shall answer the Petition no later than **July 3, 2020**. Respondents' answer must advise, but is not limited to, whether Mr. Acosta has exhausted his state court remedies as to each claim. If the Petition is mixed, and contains both exhausted and unexhausted claims, Respondents should take a position on how to proceed (*i.e.*, stay the case while Mr. Acosta exhausts all claims, overlook exhaustion and dismiss on the merits, delete the unexhausted claims, etc.). Respondents must attach to their answer copies of any filing pertinent to the issue of exhaustion that was filed by Mr. Acosta in the sentencing court, the state district court, the state court of appeals, and the state supreme court, together with copies of all

memoranda filed by both parties in support of or in response to those filings.

Respondents must also attach to the answer copies of all state court post-conviction or appellate proceedings. The answer must describe the procedural history of each claim that Respondents contend is unexhausted and identify the State procedures that are currently available to Mr. Acosta.

**IT IS SO ORDERED.**



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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE